

ESCROW MANAGEMENT AGREEMENT

THIS ESCROW MANAGEMENT AGREEMENT, dated as of _____, 2025 ("Escrow Agreement" or "Agreement"), is by and among KROENKE ARENA COMPANY, LLC, a Colorado limited liability company ("KAC"), KROENKE PARKING, LLC, a Colorado limited liability company ("Kroenke Parking") (collectively, the "Developer"); CITY AND COUNTY OF DENVER, Colorado, a home rule municipality ("City"). Developer and the City are sometimes referred to herein as a "Party", and collectively, the "Parties".

BACKGROUND

A. The City and Developer entered into the KSE Arena Development Agreement with an "Effective Date" of October 30, 2024, and recorded in the Denver Clerk and Recorder's Office on November 13, 2024, at Reception Number 2024105005, related to the development of certain Property (as defined below) in downtown Denver ("Development Agreement").

B. In the Development Agreement, Parties agreed to a High Impact Development Compliance Plan that detailed Developer's compliance with City and County of Denver affordable housing requirements pertaining to the Property.

C. The High Impact Development Compliance Plan (HIDCP), as defined below, details that Developer must pay all applicable Linkage Fees defined by and required pursuant to Chapter 27, Article V, Division 2 of the Denver Revised Municipal Code at the time of building permit issuance for certain structures, and pay two (2) times the Linkage Fees for certain other structures to access maximum height incentives, as further detailed in the HIDCP. Further, the Parties agreed in the HIDCP that twenty percent (20%) of the Linkage Fee amount, not to exceed ten million dollars (\$10,000,000.00) across the full Project and paid by Developer, will be placed by the City into escrow pursuant to this Agreement for the purpose of financing any Income-Restricted Units within the Central Park Neighborhood and Transit Neighborhood, as further delineated in the HIDCP.

D. The Parties agree to deposit the required funds with the Colorado Local Government Liquid Asset Trust, also referred to as Colotrust. Colotrust has agreed to accept, hold, and disburse the funds deposited with it and the earnings thereon in accordance with the terms of this Escrow Agreement.

E. Developer and City have appointed the Representatives (as defined below) to represent them for all purposes in connection with the funds to be deposited with Colotrust and this Escrow Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. **Definitions**. As between the Developer and the City, terms not defined herein shall have the meanings defined in the HIDCP. The following terms shall have the following meanings when used herein:

- a. "Colotrust" shall refer to the Colorado Local Government Liquid Asset Trust, originally created by an Indenture of Trust pursuant to the provisions of Part 7 of Article 75 of Title 24, Colorado Revised Statutes.
- b. "City Representative" shall mean the HOST Representative or the City's Chief Financial Officer
- c. "Compliance Report" shall mean the report prepared and submitted by Developer demonstrating progress in meeting compliance of the HIDCP in the form attached hereto as **Exhibit D**, and as further discussed in Section 8.
- d. "Developer Representative" shall mean the person(s) so designated on the Draw Request Certificate attached hereto as **Exhibit C** or any other person designated in a writing signed by Developer and delivered to the City Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.
- e. "Draw Request Certificate(s)" shall mean a written direction executed by the Parties allowing for the disbursement of all or a portion of the Funds or to take or refrain from taking any other action pursuant to this Escrow Agreement. The Forms of Draw Request Certificate(s) are attached hereto as **Exhibit C**.
- f. "DRMC" shall mean the Denver Revised Municipal Code.
- g. "Escrow Account" shall mean the account, with Colotrust, establish to hold the Funds.
- h. "Escrow Agent" shall mean Colotrust.

- i. "Escrow Period" shall mean the period commencing on the date hereof and ending on June 30, 2050, unless earlier terminated pursuant to this Escrow Agreement.
- j. "Funds" shall mean the funds deposited with Colotrust as required by HIDCP and pursuant to Section 2 of this Agreement, together with any interest and other income thereon.
- k. "HIDCP" means Developer's affordable housing plan developed to satisfy the requirements of the Mandatory Affordable Housing Ordinance and access height incentives within the CPV Zone District in accordance with Denver Zoning Code Section 8.9.5.5, by delivering affordable housing units or paying the required Linkage Fees, as applicable, within the Project. The HIDCP is incorporated by reference and attached as Exhibit B.
- l. "HOST" shall mean the Mayor's Department of Housing Stability of the City and County of Denver, or successor agency.
- m. "HOST Representative" shall mean Executive Director of the Office of Housing Stability, or the Director's designee, who is empowered to act on the City's behalf in accordance with the provisions of this Escrow Management Agreement.
- n. "Linkage Fee(s)" means the affordable housing linkage fee(s) that is/are assessed pursuant to Chapter 27, Article V of the DRMC, as may be amended from time to time.
- o. "Project" shall mean the development of the Property.
- p. "Property" shall mean that certain real property legally described on Exhibit A.
- q. "Representatives" shall mean the Developer Representative and the City Representative.

2. Deposit and Purpose of Funds. The HIDCP provides that the Parties will enter into this Escrow Agreement and that Developer shall remit to City the required Linkage Fee pursuant to Chapter 27, Article V of the DRMC and City shall deposit into the Escrow Account twenty percent (20%) of the required Linkage Fee, not to exceed ten million dollars (\$10,000,000.00), for the purpose of financing of any Income-Restricted Units within the Central Park Neighborhood

and Transit Neighborhood only. Further, Developer may only request use of a maximum amount of One Hundred Thousand Dollars (\$100,000.00) of the Funds per Income-Restricted Unit within the Central Park Neighborhood and Transit Neighborhood, as such amount is adjusted three percent (3%) annually.

3. Colotrust as Funds Holder. Developer and City hereby agree to deposit the Funds that are the subject of this Escrow Agreement in an account with Colotrust. City agrees to open a special escrow account designated “HIDCP Ball Arena Escrow Account (the “Escrow Account”) to be held and administered by Colotrust for the benefit of the Developer and the City in accordance with this Escrow Agreement. Money may only be withdrawn from the account in the manner and as prescribed in this Escrow Agreement. Neither Party may withdraw money individually from the account. Both parties shall have access to view account balance and receive statements

4. Disbursement of Funds. Colotrust, through the City, shall disburse amounts from the Escrow Account at any time and from time to time, upon receipt of, and in accordance with, a properly and fully executed and approved Draw Request Certificate substantially in the forms attached hereto in Exhibit C (as so executed and accepted, a “Draw”). Each Draw Request Certificate must (i) contain information on how the monies will be spent; (ii) shall be subject to the approval of the Executive Director of the City’s Department of Housing Stability or the City’s Chief Financial Officer, based on the requirements of this Agreement; (iii) must be accompanied by a detailed HIDCP Progress Report; and (iv) must certify that the Developer is compliant with the terms of the HIDCP. Colotrust shall have no obligation to review any receipt or other document attached to any Draw. The City agrees to review the Draw Request Certificate from the Developer within ten (10) business days of receipt of such request. If the Draw Request Certificate is complete and sufficient funds are deposited in the Escrow Account, the City Representative will sign the Draw Request Certificate and initiate the process to withdraw the amount requested and transfer that amount to Developer. Requests for funds may be made electronically. The City Representative shall promptly notify the Developer Representative when the Draw Request Certificate has been submitted and shall advise the Developer Representative on the anticipated date of delivery of the Funds, which shall be delivered via a wire per Developer Representative’s written instructions. If the City Representative deems the Draw Request Certificate to be insufficient or incomplete, the City Representative shall immediately notify the Developer of same so that the Draw Request

Certificate may be revised, if needed, and resubmitted in a timely manner.

5. Remaining Funds. If, at the termination of the Escrow Period, Developer has not utilized all of the Funds in escrow in accordance herewith, all Funds remaining in the Escrow Account will promptly be paid directly to the City for deposit into the City's "Affordable Housing Linkage Fee Revenue Fund" or otherwise, for use by the City for affordable housing-related purposes.

6. Interest Accrued on Escrow Account. Notwithstanding anything to the contrary set forth herein, the interest that accrues on the Funds will be used to pay fees and charges incurred as a result of opening, maintaining, transacting, and eventually closing the Escrow Account.

7. Fees and Expenses. Developer and City agree to pay any fees and costs uncured on the Escrow Account with accrued interest on the Funds, as described in Section 6.

8. Compliance Report. Notwithstanding anything to the contrary set forth herein, it is expressly understood that the form of Compliance Report may be amended, altered or otherwise changed by mutual agreement of the Parties without the need to amend this Agreement to ensure such Compliance Report can accurately reflect the long-term, fluid nature of the Project and the acknowledgement of future, planned Income Restricted Units will be the basis to achieve compliance with the HIDCP.

9. Binding Effect; Successors. This Escrow Agreement shall be binding upon the respective parties hereto and their heirs, executors, successors or assigns.

10. Identifying Information. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, Colotrust may require documentation to verify its formation and existence as a legal entity. Colotrust may ask to see financial statements, licenses, identification, and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The Parties acknowledge that a portion of the identifying information set forth herein may be requested by the Colotrust in connection with the USA Patriot Act, Pub.L.107-56 (the "Act"), and each agrees to provide any additional information requested by Colotrust in connection with the Act or any other legislation or regulation to which Colotrust is subject, in a timely manner.

11. Consent to Jurisdiction and Venue. In the event that any party hereto commences

a lawsuit or other proceeding relating to or arising from this Escrow Agreement, the parties hereto agree to the personal jurisdiction by and venue in the state and federal courts in the State of Colorado and waive any objection to such jurisdiction or venue. The parties hereto consent to and agree to submit to the jurisdiction of any of the courts specified herein and agree to accept service of process to vest personal jurisdiction over them in any of these courts.

12. Notices. All notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be delivered (i) by personal delivery, or (ii) by national overnight courier service, or (iii) by certified or registered mail, return receipt requested, or (iv) via facsimile transmission, with confirmed receipt or (v) via email by way of a PDF attachment thereto of a manually or electronically executed document. Notice shall be effective upon receipt except for notice via email, which shall be effective only when the recipient, by return email or notice delivered by other method provided for in this Section 12, acknowledges having received that email (with an automatic “read receipt” or similar notice not constituting an acknowledgement of an email receipt for purposes of this Section 12.) Such notices shall be sent to the applicable party or parties at the address specified below:

If to Developer or Developer Representative at:

Kroenke Arena Company, LLC & Kroenke Parking, LLC
Mike Neary, EVP, Business & Operations
1000 Chopper Circle
Denver, CO 80204

Kroenke Arena Company, LLC & Kroenke Parking, LLC
Matt Mahoney, SVP Projects & Development
1000 Chopper Circle
Denver, CO 80204

Kroenke Arena Company, LLC & Kroenke Parking, LLC
Keirstin Beck, EVP, General Counsel
1000 Chopper Circle
Denver, CO 80204

If to City or City Representative at:

Director of HOST
City and County of Denver, Colorado

201 West Colfax, Dept. 204
Denver, Colorado 80202

With copies to:
Manager of Finance
City and County of Denver, Colorado
201 West Colfax, Dept. 1004
Denver, Colorado 80202

Telephone: (720) 913-9370
Facsimile: (720) 913-9784
E-mail: cashand.investmentadministration@denvergov.org

And

Denver City Attorney's Office
Municipal Operations Section
201 West Colfax Ave. Dept.1207
Denver, Colorado 80202

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein shall be deemed to have been given on the date received.

13. Amendment, Waiver and Assignment. None of the terms or conditions of this Escrow Agreement may be changed, waived, modified, discharged, terminated or varied in any manner whatsoever unless in writing duly signed by each party to this Escrow Agreement. No course of conduct shall constitute a waiver of any of the terms and conditions of this Escrow Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Escrow Agreement on one occasion shall not constitute a waiver of the other terms of this Escrow Agreement, or of such terms and conditions on any other occasion. This Escrow Agreement may not be assigned by any party without the written consent of the other parties.

14. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

15. Governing Law. This Escrow Agreement shall be construed and interpreted in accordance with the internal laws of the State of Colorado without giving effect to the conflict of

laws principles thereof.

16. No Discrimination in Employment. In connection with the performance of work under the Agreement, the Escrow Agent may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, gender variance, sexual orientation, gender variance, marital status, protective hairstyle, or physical or mental disability. The Parties shall insert the foregoing provision in all subcontracts.

17. Entire Agreement, No Third-Party Beneficiaries. This Escrow Agreement constitutes the entire agreement between the parties relating to the holding, investment and disbursement of the Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Funds. Nothing in this Escrow Agreement, express or implied, is intended to or shall confer upon any other person, including any recipient Affordable Housing Provider, any right, benefit or remedy of any nature whatsoever under or by reason of this Escrow Agreement.

18. Execution in Counterparts, Electronic Transmission. This Escrow Agreement and any Draw Request Certificate(s) may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction. The delivery of copies of this Escrow Agreement and any Draw Request Certificate and their respective signature pages by PDF or electronic transmission shall constitute effective execution and delivery as to the parties and may be used in lieu of originals for all purposes.

19. Termination. This Escrow Agreement shall terminate upon the expiration of the Escrow Period, and Escrow Agent shall thereafter have no further obligation or liability whatsoever with respect to this Escrow Agreement or the Funds. Escrow Agent shall provide a notice of final distribution and termination to Developer and the City.

20. Brokerage Confirmation Waiver. Developer and City acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant either the right to receive brokerage confirmations for certain security transactions as they occur, Developer and City specifically waive receipt of such confirmations to the extent permitted by law. Colotrust will furnish periodic cash transaction statements that include detail for all transactions made on the account and will be available for the Parties to view.

21. Tax Reporting. Colotrust shall have no responsibility for the tax consequences of

this Escrow Agreement and Developer and City shall consult with independent counsel concerning any and all tax matters.

22. Publicity. No party will (a) use any other party's proprietary indicia, trademarks, service marks, trade names, logos, symbols, or brand names, or (b) otherwise refer to or identify any other party in advertising, publicity releases, or promotional or marketing publications, or correspondence to third parties without, in each case, securing the prior written consent of such other party.

23. Examination of Records and Audits. Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Developer's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The Developer shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Developer to make disclosures in violation of state or federal privacy laws. The Developer shall at all times comply with D.R.M.C. 20-276.

24. When Rights and Remedies Not Waived. In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Developer. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of this Agreement constitutes a waiver of any other breach.

25. Defense and Indemnification.

a. The Developer hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting

from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Developer or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

b. The Developer’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether Claimant has filed suit on the Claim. The Developer’s duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City’s negligence or willful misconduct was the sole cause of claimant’s damages.

c. The Developer shall defend any and all Claims which may be brought or threatened against the City and shall pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City will be in addition to any other legal remedies available to the City and will not be the City’s exclusive remedy.

d. Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Developer under the terms of this indemnification obligation. The Developer is responsible to obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

26. Colorado Governmental Immunity Act. In relation to this Agreement, the City is relying upon and has not waived the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, *et seq.*

27. Disputes. All disputes between the City and the Developer arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by § 56-106(b)-(f), D.R.M.C. For the purposes of that administrative procedure, the City official rendering a final determination shall be the Director as defined in this Agreement.

28. Legal Authority. The Developer represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of the Developer represents and warrants that he has been fully authorized by the Developer to execute this Agreement on behalf of the Developer and to validly and legally bind the Developer to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either the Developer or the person signing this Agreement to enter into this Agreement.

29. No Construction Against Drafting Party. The Parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any Party merely because any provisions of this Agreement were prepared by a particular Party.

30. Order of Precedence. In the event of any conflicts between the language of this Agreement and the exhibits, the language of this Agreement controls.

31. Compliance with Denver Wage Laws. To the extent applicable to the Developer's provision of Services hereunder, the Developer shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, the Developer expressly acknowledges that the Developer is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Developer, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

32. Electronic Signatures and Electronic Records. The Parties consent to the use of electronic signatures by the City and Developer. The Escrow Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City and Developer in the manner specified by the Parties. The Parties agree not to deny the legal effect or enforceability of the Escrow Agreement solely because it is in electronic form or because an electronic record was

used in its formation. The Parties agree not to object to the admissibility of the Escrow Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Exhibit List:

Exhibit A: Legal Description of Property

Exhibit B: High Impact Development Compliance Plan

Exhibit C: Draw Request Certificate

Exhibit D: Compliance Report

[Remainder of page left intentionally blank.]

Contract Control Number: HOST-202580516-00
Contractor Name: KROENKE ARENA COMPANY LLC
KROENKE PARKING LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

Attorney for the City and County of Denver

By:

REGISTERED AND COUNTERSIGNED:

By:

By:

Contract Control Number: HOST-202580516-00
Contractor Name: KROENKE ARENA COMPANY LLC

Signed by:
By: Mike Mary 064117D6808A4E0

Name: Mike Neary
(please print)

Title: Executive Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number: HOST-202580516-00
KROENKE PARKING LLC

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A
Legal Description of Property

BALL ARENA PROPERTY DEVELOPMENT AGREEMENT

A PARCEL OF LAND BEING A PORTION OF THE NORTH HALF OF SECTION 33, TOGETHER WITH PORTIONS OF BLOCKS 4, 5, 7, 68, 70, 71, 73, 240, 253, 255, 258, 260, 261, 263, 270 AND 271, ALONG WITH ALL OF BLOCKS 6, 34, 35, 36, 37, 69, 72, 254, 259 AND 262, ALONG WITH VACATED ALLEYS AND A PORTION OF THE VACATED STREETS ADJACENT TO AND CONTIGUOUS WITH SAID BLOCKS, ALL LOCATED IN WEST DENVER, AS PLATTED IN BOOK 1 AT PAGE 22, IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER; SITUATED IN SECTION 33, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; CITY AND COUNTY OF DENVER, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID BLOCK 7, BEING A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF AURARIA PARKWAY;

THENCE, ALONG SAID NORTHWESTERLY RIGHT-OF-WAY, THE FOLLOWING TWO (2) COURSES;

1. SOUTH 59°36'34" WEST, A DISTANCE OF 723.50 FEET AND CONSIDERING THIS COURSE TO BE THE BASIS OF BEARINGS FOR ALL BEARINGS CONTAINED HEREIN;
2. SOUTH 37°23'00" WEST, A DISTANCE OF 108.03 FEET

THENCE DEPARTING SAID NORTHWESTERLY RIGHT-OF-WAY, NORTH 30°23'26" WEST, A DISTANCE OF 40.86 FEET;

THENCE SOUTH 59°36'34" WEST, A DISTANCE OF 364.41 FEET;

THENCE SOUTH 30°23'26" EAST, A DISTANCE OF 11.00 FEET;

THENCE SOUTH 59°36'34" WEST, A DISTANCE OF 178.00 FEET;

THENCE NORTH 30°23'26" WEST, A DISTANCE OF 11.00 FEET;

THENCE SOUTH 59°36'34" WEST, A DISTANCE OF 120.09 FEET;

THENCE SOUTH 47°17'06" EAST, A DISTANCE OF 83.60 FEET;

THENCE SOUTH 30°36'41" EAST, A DISTANCE OF 89.04 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 10.00 FEET;

THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78°11'05", AN ARC LENGTH OF 13.65 FEET;

THENCE SOUTH 58°50'48" WEST, A DISTANCE OF 146.56 FEET;

THENCE NORTH 05°01'37" EAST, A DISTANCE OF 58.53 FEET;

THENCE NORTH 30°23'26" WEST, A DISTANCE OF 81.53 FEET;

THENCE SOUTH 35°08'54" WEST, A DISTANCE OF 55.44 FEET;

THENCE SOUTH 22°25'37" WEST, A DISTANCE OF 91.99 FEET;

THENCE SOUTH 06°50'50" WEST, A DISTANCE OF 96.16 FEET;

THENCE SOUTH 04°01'27" EAST, A DISTANCE OF 65.76 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY OF SAID AURARIA PARKWAY;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY THE FOLLOWING FIVE (5) COURSES:

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DEVELOPMENT AGREEMENT LEGAL.docx

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Exhibit A-1

1. SOUTH 44°39'00" WEST, A DISTANCE OF 71.79 FEET;
2. NORTH 30°23'26" WEST, A DISTANCE OF 24.20 FEET;
3. SOUTH 48°16'22" WEST, A DISTANCE OF 367.67 FEET TO POINT "A";
4. SOUTH 30°23'26" EAST, A DISTANCE OF 55.53 FEET;
5. SOUTH 59°43'31" WEST, A DISTANCE OF 263.82 FEET;

THENCE DEPARTING SAID NORTHWESTERLY RIGHT-OF-WAY, NORTH 88°15'34" WEST, A DISTANCE OF 123.65 FEET;

THENCE NORTH 83°48'45" WEST, A DISTANCE OF 279.97 FEET;

THENCE NORTH 60°53'34" WEST, A DISTANCE OF 131.78 FEET TO A POINT ON THE CENTERLINE OF VACATED WAZEE STREET;

THENCE SOUTH 59°36'34" WEST, A DISTANCE OF 1.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1,208.70 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 74°25'10" EAST;

THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 65°52'24", AN ARC LENGTH OF 1,389.65 FEET;

THENCE NORTH 59°34'35" EAST, NON-TANGENT TO SAID CURVE, A DISTANCE OF 1,181.21 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 600.00 FEET;

THENCE NORtheasterly ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°28'44", AN ARC LENGTH OF 67.85 FEET;

THENCE NORTH 53°05'51" EAST, A DISTANCE OF 25.63 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 1,109.14 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 34°52'55" WEST;

THENCE NORtheasterly ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°25'50", AN ARC LENGTH OF 163.20 FEET;

THENCE NORTH 13°45'03" EAST, NON-TANGENT TO SAID CURVE, A DISTANCE OF 110.73 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 1,208.08 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 48°12'20" WEST;

THENCE NORtheasterly ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°42'53", AN ARC LENGTH OF 225.92 FEET;

THENCE NORTH 31°04'47" EAST, A DISTANCE OF 311.92 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1,591.36 FEET;

THENCE NORtheasterly ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°04'45", AN ARC LENGTH OF 168.85 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORtheasterly HAVING A RADIUS OF 1,388.24 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 46°33'59" EAST;

THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°25'32", AN ARC LENGTH OF 83.00 FEET;

THENCE SOUTH 46°51'33" EAST, A DISTANCE OF 239.97 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY OF VACATED WEWATTA STREET;

THENCE NORTH 59°36'34" EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 25.47 FEET;

THENCE SOUTH 46°51'34" EAST, A DISTANCE OF 272.76 FEET;
THENCE SOUTH 46°12'56" EAST, A DISTANCE OF 114.59 FEET;
THENCE SOUTH 46°50'28" EAST, A DISTANCE OF 102.38 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 951.74 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 43°10'35" WEST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°45'17", AN ARC LENGTH OF 29.15 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1,150.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 48°43'52" WEST;
THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°08'06", AN ARC LENGTH OF 203.42 FEET;
THENCE SOUTH 31°08'02" EAST, A DISTANCE OF 41.81 FEET;
THENCE SOUTH 41°25'54" EAST, A DISTANCE OF 51.01 FEET;
THENCE SOUTH 30°24'45" EAST, A DISTANCE OF 29.93 FEET;
THENCE NORTH 59°36'34" EAST, A DISTANCE OF 4.92 FEET;
THENCE SOUTH 30°23'26" EAST, A DISTANCE OF 132.40 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY OF AURARIA PARKWAY;
THENCE SOUTH 59°36'34" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 546.62 FEET TO THE **POINT OF BEGINNING**.

CONTAINING A GROSS AREA OF 72.510 ACRES, (3,158,517 SQUARE FEET), MORE OR LESS.

EXCEPTING THEREFROM THE FOLLOWING PARCEL:

COMMENCING AT THE AFOREMENTIONED POINT "A";

THENCE ALONG THE WESTERLY LINE OF SAID BLOCK 258, NORTH 30°23'26" WEST, A DISTANCE OF 101.75 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ALONG SAID WESTERLY LINE OF BLOCK 258 AND ITS NORTHERLY EXTENSION THEREOF AND THE WESTERLY LINE OF SAID BLOCK 259, NORTH 30°23'26" WEST, A DISTANCE OF 403.50 FEET;

THENCE DEPARTING SAID WESTERLY LINE OF BLOCK 259, NORTH 59°36'34" EAST, A DISTANCE OF 97.50 FEET;

THENCE NORTH 17°47'57" EAST, A DISTANCE OF 12.75 FEET;

THENCE NORTH 59°36'34" EAST, A DISTANCE OF 33.50 FEET TO A POINT ON THE CENTERLINE OF THE 16.50 FOOT ALLEY WITHIN SAID BLOCK 259;

THENCE NORTH 30°23'26" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 57.00 FEET;

THENCE NORTH 59°36'34" EAST, A DISTANCE OF 180.00 FEET TO THE CENTERLINE OF SIXTH STREET;

THENCE SOUTH 30°23'26" EAST, ALONG SAID CENTERLINE, A DISTANCE OF 319.60 FEET TO A POINT ON THE EASTERLY EXTENSION OF SAID NORTHERLY LINE OF BLOCK 258;

THENCE SOUTH 59°36'34" WEST, ALONG SAID EASTERLY EXTENSION, A DISTANCE OF 64.13 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 452.55 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 75°10'18" WEST;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°46'13", AN ARC LENGTH OF 124.56 FEET;

THENCE SOUTH 30°35'56" WEST, A DISTANCE OF 90.28 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 329.84 FEET;

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°38'32", AN ARC LENGTH OF 84.29 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 2.659 ACRES, (115,831 SQUARE FEET), MORE OR LESS.

THE SUBJECT PARCEL CONTAINS A NET AREA OF 69.850 ACRES, (3,042,686 SQUARE FEET), MORE OR LESS.

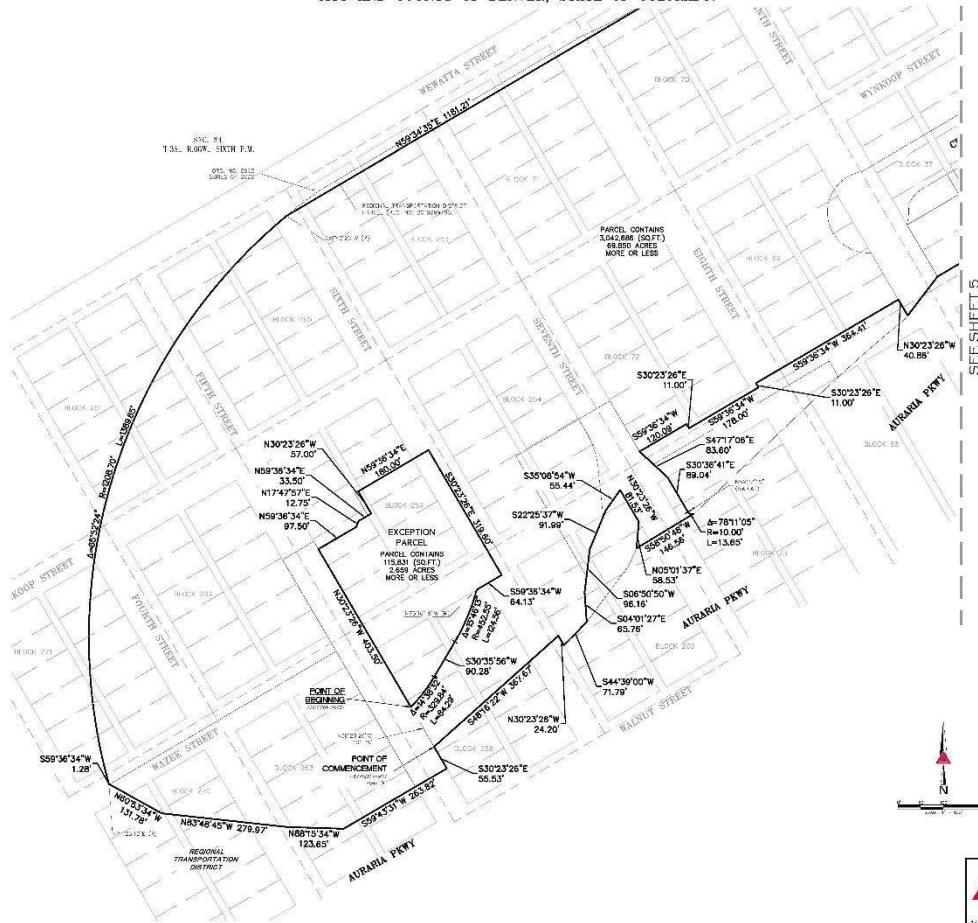
ILLUSTRATION ATTACHED AND MADE A PART HEREOF.

JAMES E. LYNCH, PLS NO. 37933
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVE., SUITE 1, LITTLETON, CO 80122
303-713-1898



BALL ARENA PROPERTY DEVELOPMENT AGREEMENT

A PART OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY AND COUNTY OF DENVER, STATE OF COLORADO.



1300 Rev. 2000 2023.51

200

	DATE OF PURCHASED	5/16/2021
	ITEM	Y-00
	AMOUNT	5.00

BALL ARENA PROPERTY DEVELOPMENT AGREEMENT

A PART OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY AND COUNTY OF DENVER, STATE OF COLORADO.



EXHIBIT B

HIGH IMPACT DEVELOPMENT COMPLIANCE PLAN

THIS HIGH IMPACT DEVELOPMENT COMPLIANCE PLAN FOR BALL ARENA (this “**High Impact Development Compliance Plan**”) serves as **EXHIBIT C-1** to that certain KSE Arena Development Agreement (the “**Development Agreement**”).

RECITALS

- A. Developer is the owner of the real property that is legally described on **Exhibit A** to the Development Agreement (the “**Property**”). The Property is located in downtown Denver and is bounded by Burlington Northern Railroad to the north, Speer Boulevard to the east and Auraria Parkway to the south.
- B. As master developer, Developer seeks to develop the Property as a sustainable, mixed-use community that expands downtown Denver, creates connections for the Sun Valley neighborhood to easily link to LoDo and other areas of downtown Denver, expands the 5280 Trail within the Property, celebrates Denver’s city life and provides attainable housing across various income levels, as well as provide many other community benefits (the “**Project**”).
- C. It is currently anticipated the Project will include 6,000 or more Residential Units (as such term is defined below) integrated throughout the Property, connecting all residents to the ample on-site Project amenities and significant transportation/multi-modal options in a downtown location.
- D. Consistent with the Department of Housing Stability (“**HOST**”) Five-Year Strategic Plan, the goals of the Mandatory Affordable Housing Ordinance, and the Downtown Area Amendment Plan goals to expand affordable and workforce housing options to a range of households, Developer has voluntarily agreed that eighteen percent (18%) of the Residential Units (as such term is defined below), for both ownership and for rent, in the Project will be Income-Restricted Units (as defined below), offered at a range of affordability levels with larger units for families, and this Project shall adhere to the Prioritization Policy (as defined below), as further described herein.
- E. To ensure a mix of Income-Restricted Unit types within the Central Park Neighborhood and Transit Neighborhood (as such terms are defined below), within each of these Neighborhoods, at least:
 - a. twenty percent (20%) of the Income-Restricted Units will be two-bedroom units; and
 - b. fifteen percent (15%) of the Income-Restricted Units will be three-bedroom units.
- F. A long-term, 99-year affordability covenant will be recorded and encumber each Income-Restricted Rental Unit (as such term is defined below) to restrict monthly rental payments and require that the tenants of such units meet income eligibility standards; and each Income-Restricted Ownership Unit (as such term is defined below) to restrict the purchase price and require that the owners of such units must meet income eligibility standards. The City may elect, in its sole discretion, to extend the term of any such Rental Covenant or Ownership Covenant for an additional ninety-nine (99) years.

- G. In addition to constructing the Income-Restricted Units as part of the Project, Developer will pay the commercial linkage fee for non-residential uses required by the DZC and DRMC (as such terms are defined herein) which may include two times the commercial linkage fee for Primarily Non-Residential Structures to access maximum height incentives, all as further described herein.
- H. This High Impact Development Compliance Plan is consistent with Citywide and local area plans, the HOST Five-Year Strategic Plan, and the Downtown Area Amendment Plan, by providing on-site, integrated, affordable housing across diverse income levels at a downtown location. The purpose of this High Impact Development Compliance Plan is to set forth the Parties' agreement and understanding regarding the manner in which Developer will make available the Income-Restricted Units as part of the Project, in accordance with Chapter 27, Article X, Division 3 of the DRMC and the MAH Rules and Regulations.

AGREEMENT

FOR GOOD AND VALUABLE MUTUAL CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

- 1. **RECITALS AND SCHEDULES.** The recitals and schedules to this High Impact Development Compliance Plan are hereby incorporated herein to this High Impact Development Compliance Plan.
- 2. **DEFINITIONS.** As used in this High Impact Development Compliance Plan, the following phrases will have the following definitions (any defined term used and not defined herein shall have the meaning ascribed in the DRMC or the MAH Rules):
 - a. **“Affordable Structure”** means one of the two Structures with only Income-Restricted Units, which will have an affordability period of no less than ninety-nine (99) years from the date of recordation of the Covenant on such Structure, respectively.
 - b. **“AMI”** means the metropolitan area adjusted median income for the Denver metropolitan area, adjusted for household size, as calculated by the U.S. Department of Housing and Urban Development.
 - c. **“Central Park Neighborhood”** means the area depicted and labeled as the Central Park Neighborhood as set forth on the Project Neighborhood Plan on **Schedule A**.
 - d. **“City”** means the City and County of Denver.
 - e. **“Covenant”** means either a Rental Covenant or Ownership Covenant, as described in Sections 12 and 13 below.
 - f. **“CPD”** means the City’s Department of Community Planning and Development or successor agency.
 - g. **“DRMC”** means Denver Revised Municipal Code, as may be amended from time to time.
 - h. **“DZC”** means Denver Zoning Code, as may be amended from time to time.

- i. **“Entertainment Neighborhood”** means the area depicted and labeled as the Entertainment Neighborhood as set forth on the Project Neighborhood Plan on **Schedule A**.
- j. **“High Impact Development”** has the same meaning as the definition in Section 27-219 of the DRMC.
- k. **“HOST”** means the City’s Department of Housing Stability or successor agency.
- l. **“Income-Restricted Unit”** or **“IRU”** means an Income-Restricted Rental Unit or an Income-Restricted Ownership Unit.
- m. **“Income-Restricted Ownership Unit”** means an affordably priced ownership Residential Unit constructed under the terms of this High Impact Development Compliance Plan, as defined in the MAH Rules and Regulations, and required to be affordable as set forth in Chapter 27, Article X of the DRMC.
- n. **“Income-Restricted Rental Unit”** means an affordably priced rental Residential Unit constructed under the terms of this High Impact Development Compliance Plan, as defined in the MAH Rules and Regulations, and required to be affordable as set forth in Chapter 27, Article X of the DRMC.
- o. **“Linkage Fee”** means the affordable housing linkage fee that is assessed pursuant to Chapter 27, Article V of the DRMC, as may be amended from time to time.
- p. **“MAH”** means the City’s Mandatory Affordable Housing Ordinance, codified at Chapter 27, Article X of the DRMC, as may be amended from time to time.
- q. **“MAH Rules and Regulations”** means the Mandatory Affordable Housing Ordinance & Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations, adopted as of December 12, 2022, by the City, as may be amended from time to time.
- r. **“Market Rate Residential Unit”** means a Residential Unit that is not an Income-Restricted Unit.
- s. **“Market Rate Only Structure”** means one of the five Structures with only Market Rate Residential Units that may include different finishes, exteriors, amenities and services than any other Structures within the Project.
- t. **“Neighborhood”** means either the Entertainment Neighborhood, Central Park Neighborhood or Transit Neighborhood.
- u. **“Permanent Supportive Housing Unit”** means a Residential Unit that combines non-time-limited affordable housing assistance with wrap-around supportive services for people experiencing homelessness, as well as other people with disabilities. Each such unit

must have a per unit services budget of at least \$7,200 annually, and the maximum AMI of tenants is 30% of AMI.

- v. **“Primarily Non-Residential Structure”** means a Structure in which Primary Residential Uses, as defined in the DZC, comprise 50% or less of the total gross floor area excluding parking.
- w. **“Prioritization Policy”** means the City’s Prioritization of Income-Restricted Affordable Units Ordinance codified at Chapter 27, Article XII of the DRMC, as may be amended from time to time.
- x. **“Project Neighborhood Plan”** means the graphic depicting the three neighborhoods within the Project: (i) Entertainment Neighborhood; (ii) Central Park Neighborhood; and (iii) Transit Neighborhood, set forth on **Schedule A**.
- y. **“Records”** means the real property records of the City and County of Denver.
- z. **“Residential Unit”** means a dwelling unit constructed within the Project, for sale or for rent.
- aa. **“Structure”** uses the same definition as in Section 27-152 of the DRMC.
- bb. **“Transit Neighborhood”** means the area depicted and labeled as the Transit Neighborhood as set forth on the Project Neighborhood Plan on **Schedule A**.

3. **AFFORDABILITY PERCENTAGE.** Eighteen percent (18%) of the total number of Residential Units in the Project shall be Income-Restricted Units in accordance with the terms and conditions of this High Impact Development Compliance Plan (“**Affordability Percentage**”). The Affordability Percentage requirement applies both to the Income-Restricted Rental Units and the Income-Restricted Ownership Units. If a percentage calculation results in a fraction, the fraction will be rounded down if it is below 0.5 and rounded up if it is 0.5 or greater. The requirements of this Paragraph 3 do not impose any obligation or requirement to construct any Residential Units within the Project.

4. **LEVEL OF AFFORDABILITY.** The Project must provide the Income-Restricted Units at the following levels of affordability (“**Level of Affordability**”):

- a. **Rental Units.** The Income-Restricted Rental Units will:
 - i. Have an effective average of 70% of AMI;
 - ii. Not exceed 80% of AMI, except within the two Affordable Structures described in Paragraph 6.a. below, where the Income-Restricted Rental Units may not exceed 100% of AMI; and
 - iii. Include a minimum of 50 Permanent Supportive Housing Units not to exceed 30% of AMI within an Affordable Structure.
- b. **Ownership Units.** The Income-Restricted Ownership Units will:
 - i. Have an effective average of 90% of AMI; and

- ii. Not exceed 120% of AMI.
5. **BEDROOM MIX REQUIREMENT.** Within the Central Park Neighborhood and Transit Neighborhood only, at least twenty percent (20%) of the Income-Restricted Units will be two-bedroom units, and at least fifteen percent (15%) of the Income-Restricted Units will be three-bedroom units (“**Bedroom Mix Requirement**”). The effect of the Bedroom Mix Requirement is that at least 35% of the Income-Restricted Units will have either two (2) or three (3) bedrooms. This requirement applies both to the Income-Restricted Rental Units and the Income-Restricted Ownership Units, and the Central Park Neighborhood and Transit Neighborhood will be individually required to comply with this Bedroom Mix Requirement. The two-bedroom IRUs shall have an effective average of 70% of AMI if offered for rent, and an effective average of 90% of AMI if offered for sale. The three-bedroom IRUs shall have an effective average of 70% of AMI if offered for rent, and an effective average of 90% of AMI if offered for sale.
6. **INTEGRATION.** Except as permitted in this Paragraph 6, Developer will integrate the Income-Restricted Units and the Market Rate Residential Units within each Structure and ensure all common amenities and services are available to all residents within a Structure.
 - a. **Affordable Structures.** Notwithstanding anything to the contrary set forth in this High Impact Development Compliance Plan, to maximize tax credit and public/private partnership opportunities, the Project may include one (1) Affordable Structure in the Central Park Neighborhood and one (1) Affordable Structure in the Transit Neighborhood, and all Income-Restricted Units within such structures shall apply towards the Affordability Percentage and Bedroom Mix Requirement. It is expressly understood that the first three (3) Structures permitted to proceed within both the Central Park Neighborhood and Transit Neighborhood, respectively, must include one (1) Affordable Structure and may include no more than one (1) Market Rate Only Structure. Accordingly, if the first two (2) Structures within the applicable Neighborhood do not include an Affordable Structure within the applicable Neighborhood, then the City may deny issuance of further building permits or certificates of occupancy for a third (3rd) Structure in that Neighborhood until the applicable Affordable Structure has received its certificate of occupancy or temporary certificate of occupancy. Developer shall not exceed 300 IRUs in any Affordable Structure.

If Developer determines that it cannot or will not construct the allowed Affordable Structure for a Neighborhood (e.g. due to an inability to secure financing, changes in market conditions, etc.), then Developer will be required to integrate Income-Restricted Units into all future buildings in that Neighborhood, such that the total number of Income-Restricted Units in the Neighborhood will be at least eighteen percent (18%) of the total Residential Unit count in the Neighborhood. Developer’s decision to integrate units shall be reflected in an updated Neighborhood Compliance Plan and future SDP Monitoring Charts. Once Developer elects to integrate all Income-Restricted Units within a Neighborhood, if the number of completed Income-Restricted Units in the Neighborhood is ever less than eighteen percent (18%) of the total number of completed Residential Units in the Neighborhood, then any future SDP for a Structure containing Residential Units shall only be approved if at least eighteen percent (18%) of Residential Units in that Structure will be Income-Restricted Units.

b. **Market Rate Only Structures.** The Project may include a maximum of five (5) Market Rate Only Structures, which may access the height incentives without containing Income-Restricted Units within the following Neighborhoods. The required Neighborhood Compliance Plan for each Neighborhood will determine the timing of the construction of the Market Rate Only Structures in a manner consistent with Paragraph 6.a. above.

i. Entertainment Neighborhood:	One (1) Market Rate Only Structure
ii. Central Park Neighborhood:	Two (2) Market Rate Only Structures
iii. Transit Neighborhood:	Two (2) Market Rate Only Structures

c. **Design / Quality / Access of Income-Restricted Units.** The Income-Restricted Units within each Structure shall be of comparable size, quality, and design to Market Rate Residential Units within such Structure. Residents of Income-Restricted Units shall have access to the amenities and services available to Structure and Project residents. The exterior design of the Income-Restricted Units will be indistinguishable from the other units in the Structure in terms of type of finishes and general appearance and the interior design of the Income-Restricted Units will be functionally equivalent to Market Rate Residential Units within the Structure.

d. **Penthouse Units.** Notwithstanding anything to the contrary set forth herein, it is expressly understood that Developer may designate up to ten percent (10%) of a Structure's residential Gross Floor Area, as defined in Article 13 of the DZC, as Penthouse Units that occupy the uppermost floors of the Structure and include larger floor plans, enhanced features, and finishes available only to Penthouse Units, as well as any services or amenities also available only to Penthouse Units, so long as such high-end units exceed one hundred and twenty percent (120%) of rental or sales rates, as applicable, for all other Market Rate Residential Units with the same bedroom count within a Structure. The number and location of Penthouse Units will be included in the Neighborhood Compliance Plans and SDP Monitoring Charts, and the Penthouse Unit designation will only apply to Residential Units designated as Penthouse Units at time of SDP approval.

7. **HEIGHT INCENTIVES.** In accordance with DZC Section 8.9.5.5., all Structures within the Project qualify for the maximum height incentives set forth in the applicable building form table so long as: (i) all Primarily Non-Residential Structures provide payment of a Linkage Fee that is equal to two (2) times the then current Linkage Fee rate for all applicable uses located therein; and (ii) the Project is in compliance with this High Impact Development Compliance Plan.

a. **Enhanced Linkage Fee.** Consistent with DZC Section 8.9.5.5.(C)(2), a Primarily Non-Residential Structure may provide payment of a Linkage Fee, at the time of building permit issuance for such Structure, that is equal to two (2) times the then current Linkage Fee rate for all applicable uses defined in DRMC Section 27-153 located therein, to develop to the maximum height with incentives set forth in the applicable building form table.

8. **PROJECT LINKAGE FEE FUND.** Developer must pay all applicable Linkage Fees required pursuant to Chapter 27, Article V, Division 2 of the DRMC at the time of building permit issuance for a Structure, including two (2) times the Linkage Fees for Primarily Non-Residential Structures to access maximum height incentives. The City acknowledges the transformational and unique impact

the Project will have on the City through the development of over fifty (50) acres as an extension of downtown, approximately six thousand (6,000) Residential Units, a large central park, delivery of substantial community benefits, and delivery of thirty-five percent (35%) of the Central Park Neighborhood and Transit Neighborhood Income-Restricted Units with two or three bedrooms, as further described herein. As such, twenty percent (20%) of the Linkage Fee amount, not to exceed ten million dollars (\$10,000,000.00) across the full Project, will be placed by the City into escrow pursuant to an escrow agreement (the “**Escrow Agreement**”) that is consistent with this Paragraph 8 and reasonably approved by the Executive Director of HOST (the “**Project Affordable Fund**”). Developer and HOST will work together in good faith to agree upon the form of Escrow Agreement in connection with the approved IMP. Until the expiration or earlier termination of the Development Agreement, Developer may, subject to the approval of the Executive Director of HOST and provided that Developer is otherwise acting in accordance with the terms of this High Impact Development Compliance Plan, access all or any portion of **Project Affordable Fund** for the purpose of financing of any Income-Restricted Units within the Central Park Neighborhood and Transit Neighborhood only. The **Escrow Agreement** shall provide that if, at the termination of the Development Agreement, Developer has not utilized all of the **Project Affordable Fund** in escrow in accordance herewith, all funds remaining in the escrow account will promptly be paid directly to the City for deposit into the City’s “**Affordable Housing Linkage Fee Revenue Fund**” or otherwise, for use by the City for affordable housing-related purposes.

9. **DETERMINATION AND APPLICATION OF AFFORDABLE HOUSING INCENTIVES; OTHER HOST SUBSIDY AND TIF.** It is expressly understood that the Structures within the Project that provide Income-Restricted Units on-site are eligible for base incentives for on-site compliance set forth in DRMC Section 27-224(b), including building permit fee reductions, reduced minimum vehicle parking requirements (further described in DZC 10.4.5.2), and exemptions to the linkage fee for ground floor commercial, sales, service, and repair uses. Affordable Structures will be eligible for all available subsidies, credits and similar economic incentives available to developers of affordable housing for Income-Restricted Units, provided that the City will only provide subsidy for IRUs at an average of 50% of AMI, with a cap of 70% of AMI, and recipients of such subsidies will be subject to all City restrictions associated with such subsidies. Funding requests made to the City will be subject to City underwriting standards, and City staff shall take into account the financial resources available to the applicable developer of the Affordable Structure (e.g. the **Project Affordable Fund**, revenue from Units at 100% of AMI, and funding opportunities for units above 80% of AMI). Funding requests will only be approved if the current balance of the **Project Affordable Fund** is \$0 or if all current funds in the Project Affordable Fund are committed to IRUs in the Project, per consent of the Executive Director of HOST. Developer and the City agree that if tax increment financing (TIF) is pursued, then the HOST Executive Director reserves the right to require an amendment to the HIDCP to increase the Affordability Percentage requirement, the Level of Affordability requirement, and/or the Bedroom Mix Requirement in exchange for the additional City subsidy into the Project.
10. **HIGH IMPACT DEVELOPMENT.** As of the date of this High Impact Development Compliance Plan, the Project is considered a High Impact Development in accordance with the DRMC and the MAH Rules and Regulations. It is expressly understood that so long as the Project is in compliance with this High Impact Development Compliance Plan, the Project will be considered to satisfy all affordable housing requirements in Chapter 27, Article X, Division 3 of the DRMC. This High Impact Development Compliance Plan has been approved in accordance with procedures and

requirements set forth in D.R.M.C. § 27-229(c), including but not limited to any regulations established pursuant to D.R.M.C. § 27-230, as demonstrated by the Developer's signature on the Development Agreement and the HOST Executive Director's signature at the end of this High Impact Development Compliance Plan.

11. DEVELOPER'S COMPLIANCE. Developer will complete or cause the completion of the Income-Restricted Units on a phased basis, by Neighborhood, in accordance with this Paragraph.

- a. **Neighborhood Compliance Plan.** Prior to the approval of each site development plan ("SDP") within any Neighborhood, Developer will be required to deliver to HOST and CPD for their review and approval, a plan stating how the applicable Neighborhood will comply with the High Impact Development Compliance Plan's requirements regarding Prioritization Policy, Affordability Percentage, Level of Affordability, Bedroom Mix Requirement, Permanent Supportive Housing Units, and Penthouse Units, if applicable (each a "**Neighborhood Compliance Plan**"), with reasonable specificity but allowing for flexibility to respond to market conditions throughout the applicable Neighborhood's buildout and flexibility across the Structures within a Neighborhood. Approval of a Neighborhood Compliance Plan shall not be withheld so long as Developer reasonably demonstrates that the Project will be in compliance with this High Impact Development Compliance Plan by the completion of such Neighborhood development. It is expressly understood that an individual Structure may include less than eighteen percent (18%) Income-Restricted Units or may not meet the Bedroom Mix Requirement for a particular Structure so long as the applicable Neighborhood Compliance Plan demonstrates how the requirements of this High Impact Development Compliance Plan will still be satisfied across the remaining Structures in such Neighborhood. In connection with each SDP, Developer will include an update, as applicable, to the applicable Neighborhood Compliance Plan to reflect each completed Structure within such Neighborhood and pending SDP applications, as further described in Paragraph 11.b and 11.c. below.
- b. **Flexibility of a Neighborhood Compliance Plan.** It is understood that each version of a Neighborhood Compliance Plan may be slightly different. Those submitted near the commencement of an applicable Neighborhood will be more general, and successive Neighborhood Compliance Plans will be further refined throughout the Project's buildout for the applicable Neighborhood. Upon submission of the first SDP for the Project, Developer and the City will meet no fewer than two (2) times per year to discuss Neighborhood Compliance Plans, as applicable, and any modifications needed thereto. All modifications to a Neighborhood Compliance Plan, as applicable, will be permissible so long as Developer continues to demonstrate that the Project will be in compliance with this High Impact Development Compliance Plan by the completion of the applicable Neighborhood.
- c. **SDP Monitoring.** To allow for periodic assessment of compliance throughout the completion of a Neighborhood, as applicable, each SDP shall set forth square footage of development, broken down by use, and information regarding any Income-Restricted Units and Penthouse Units included within such SDP, as well as a cumulative total for the Project's approved SDPs and Income-Restricted Units with a Covenant in place. The City may deny approval of any SDP that is inconsistent with Developer's approved

Neighborhood Compliance Plan unless and until the SDP is revised to be consistent with the Neighborhood Compliance Plan or a modification to the Neighborhood Compliance Plan is submitted and approved by HOST and CPD, and the SDP is consistent therewith. Income-Restricted Units shall be counted as produced at the time of recordation of a Covenant; provided, however, Developer will not be considered out of compliance with each Neighborhood Compliance Plan if proposed Income-Restricted Units are under vertical construction or planned at the time of such compliance review.

- d. **Publication of Available, Constructed and Planned IRUs.** Developer will maintain an up-to-date Project website that includes available, constructed and planned Income-Restricted Units that are the subject of a pending SDP.
- e. **Withholding Building Permits.** The City may deny issuance of further building permits or certificates of occupancy within the Project if the most recent SDP submitted within the Project demonstrates, via its Neighborhood Compliance Plan and SDP Monitoring Chart, that the Project is not in compliance with the requirements of this High Impact Development Compliance Plan; provided, however, Developer will not be considered out of compliance with a Neighborhood Compliance Plan if Income-Restricted Units are under vertical construction or planned at the time of such compliance review.
- f. **Certificate of Compliance.** Upon completion of each Neighborhood within the Project, Developer shall provide to HOST and CPD a certificate of compliance, demonstrating how the applicable Neighborhood satisfied the High Impact Development Compliance Plan's requirements related to Affordability Percentage, Level of Affordability, Bedroom Mix Requirement, and Prioritization Policy (each a "**Compliance Certificate**").

12. **COVENANT FOR RENTAL UNITS.** For any building on the Property that will contain an Income-Restricted Rental Unit, the owner of such building shall, as a condition of the City's issuance of the first certificate of occupancy the building, record in the Records a covenant that encumbers the Income-Restricted Units included within such building in the form attached hereto as **Schedule D-1** (the "**Rental Covenant**"), which shall constitute a covenant running with the title to the land. Each Rental Covenant shall provide that all Income-Restricted Rental Units shall be occupied by tenants whose household incomes are at or below the AMI limitation for such unit and that the rent for such unit shall not exceed the applicable income limitation for such unit. Each Rental Covenant shall contain such other terms and restrictions as are set forth in **Schedule D-1**. Each Rental Covenant shall encumber such Income-Restricted Units for a period of not less than ninety-nine (99) years from the date of recordation of the applicable Rental Covenant. Notwithstanding the foregoing, it is expressly understood that the City may elect, in its sole discretion, to extend the term of any Rental Covenant for an additional ninety-nine (99) years. Such extension shall operate automatically if the City files notice in the Records acknowledging its right to extend the term of any Rental Covenant and its exercise of the same, as such right is provided in the Rental Covenant.

13. **COVENANT FOR OWNERSHIP UNITS.** For any Income-Restricted Ownership Unit in the Project, Developer or the owner of such unit shall, prior to and as a condition of the City's issuance of the first certificate of occupancy for such Income-Restricted Ownership Unit, record in the Records a covenant on such property in the form attached hereto as **Schedule D-2** (the "**Ownership Covenant**"), which shall constitute a covenant running with title to the applicable Income-

Restricted Ownership Unit. Each Ownership Covenant shall provide that, during the period for which such Ownership Covenant is in effect, the Income-Restricted Ownership Unit shall be sold only to buyers with household incomes not exceeding the AMI limitation for such unit and upon the initial sale and each subsequent sale during the restricted period, the sale price for such unit shall not exceed the maximum sale price established by HOST for such AMI level within the City. Each Ownership Covenant shall contain such other terms and restrictions as are set forth in **Schedule D-2**. Each Ownership Covenant shall encumber the applicable unit for a period of not less than ninety-nine (99) years from the date of recordation of the applicable Ownership Covenant. Notwithstanding the foregoing, it is expressly understood that the City may elect, in its sole discretion, to extend the term of any Ownership Covenant for an additional ninety-nine (99) years. Such extension shall operate automatically if the City files notice in the Records acknowledging its right to extend the term of any Ownership Covenant and its exercise of the same, as such right is provided in the Ownership Covenant.

14. **ENFORCEMENT OF COVENANT.** The owner of any Income-Restricted Unit shall be responsible for compliance with any applicable Covenant and for periodic reporting to HOST on such compliance. HOST will be responsible for monitoring such compliance. The City shall have all enforcement rights provided in a Covenant and the MAH Rules and Regulations.
15. **ENFORCEMENT OF HIGH IMPACT DEVELOPMENT COMPLIANCE PLAN.** Owners of lots within the Property other than Developer will be obligated to comply with this High Impact Development Compliance Plan. The City may deny issuance of further building permits or certificates of occupancy within the Project if the Project is not in compliance with the requirements of this Plan, or if the Developer or Owners fail to fulfill or perform any express obligation of the Developer or Owners stated in this Plan.
16. **PRIORITIZATION POLICY.** Each Neighborhood Compliance Plan will also include a plan for the Project to achieve the goal of 30% of the IRUs to meet the Prioritization Policy.
17. **INTENTIONALLY OMITTED.**
18. **COMMUNITY OUTREACH.** In accordance with the MAH, Developer has conducted substantial community outreach to develop this High Impact Development Compliance Plan over a period of 18 months, including regularly scheduled meetings with members of the community as often as weekly. Developer has prepared a detailed report of its community outreach efforts which is on file with City Clerk at file number 20240108 and incorporated herein as part of this High Impact Development Compliance Plan.
19. **MISCELLANEOUS.**
 - a. **Requirements of Income-Restricted Units.** Except where otherwise indicated in this High Impact Development Compliance Plan, the Income-Restricted Units shall be subject to all requirements in the DRMC and the MAH Rules and Regulations that do not conflict with this High Impact Development Compliance Plan.
 - b. **Entire Agreement.** This High Impact Development Compliance Plan, together with any schedules, exhibits or documents referred to in, or supplied pursuant to the terms of this

High Impact Development Compliance Plan, contains the entire agreement relative to affordable housing on the Property and supersedes all prior oral representations, covenants, understandings or other agreements between the parties or their agents.

- c. **Covenants Running with the Land.** All provisions of this High Impact Development Compliance Plan will be deemed to be covenants running with the land or equitable servitudes, as the case may be. The benefits, burdens and other provisions contained in this High Impact Development Compliance Plan will be binding upon and will inure to the benefit of Developer and the City and their respective successors and assigns. The City acknowledges that Developer may convey certain parcels of property within the Property to others for development and that in the event of such conveyance, the new owners of the conveyed parcel will become responsible for obligations under this High Impact Development Compliance Plan with respect to such parcels of property conveyed.
- d. **Third Party Beneficiaries.** Enforcement of the terms and conditions of this High Impact Development Compliance Plan, and all rights of action relating to such enforcement will be strictly reserved to the City and Developer, or Developer's successor as described herein, and nothing contained in this High Impact Development Compliance Plan will give or allow any such claim or right of action by any other or third person regarding the terms and conditions hereof. It is the express intention of the City and Developer that any person other than the City or Developer receiving services or benefits under this High Impact Development Compliance Plan will be deemed to be an incidental beneficiary only.
- e. **Section Headings.** The section headings are inserted only for convenient reference and do not define, limit or prescribe the scope of this High Impact Development Compliance Plan.
- f. **Assignment.** It is contemplated that the City may sometime in the future assign its enforcement rights under this High Impact Development Compliance Plan to an existing or to-be-formed entity which has as its primary purpose the development or management of housing projects in the Denver metropolitan area or is otherwise qualified to undertake the responsibilities described herein. Written notice of any such assignment will be provided to Developer or the owner of the applicable Income-Restricted Units at the last known address at least thirty (30) days prior to the effective date of the assignment. Any such assignment will be in writing and recorded in the real property records of the City and County of Denver, Colorado and, upon such recording, the assignee so named in such instrument will in all instances replace references to the City in this High Impact Development Compliance Plan and in the associated Covenant.
- g. **Amendment.** This High Impact Development Compliance Plan may be amended, modified or rescinded in accordance with Section 3 of the Development Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this High Impact Development Compliance Plan is hereby executed by the Executive Director of HOST, on behalf of the City on this 19th day of September, 2024.

HOST:

DENVER DEPARTMENT OF HOUSING STABILITY

By: Jamie Rife Digital signature
Date: 2024.09.19 16:09:54
-06'00'

Name: Jaime Rife
Title: Executive Director of HOST

SCHEDULE A
PROJECT NEIGHBORHOOD PLAN
**ENTERTAINMENT NEIGHBORHOOD, CENTRAL PARK NEIGHBORHOOD & TRANSIT
NEIGHBORHOOD**



SCHEDULE B
INTENTIONALLY OMITTED

SCHEDULE C
INTENTIONALLY OMITTED

SCHEDE D-1

COVENANT ENCUMBERING INCOME RESTRICTED UNIT (RENTAL)

WHEN RECORDED MAIL TO:

Department of Housing Stability
Attention: Catalytic Projects Team
201 W. Colfax Ave., Dept. 615
Denver, CO 80202
RECODER'S USE

SPACE ABOVE THIS LINE IS FOR

RENTAL AND OCCUPANCY COVENANT

THIS RENTAL AND OCCUPANCY COVENANT is made this ____ day of
_____, 20____, by _____, a _____
("Owner"), and enforceable by the City and County of Denver, Colorado ("City").

RECITALS:

WHEREAS, Owner owns the following described real property in the City and County of Denver, State of Colorado (the "Subject Property"):

[fill in]

WHEREAS, pursuant to the provisions of the Mandatory Affordable Housing Ordinance as set forth in Article X of Chapter 27 of the Denver Revised Municipal Code as amended from time to time (the "MAH Ordinance") and the Mandatory Affordable Housing Ordinance & Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations (the "Rules"), Owner shall provide that certain units within the Subject Property will be built as Income Restricted Units as defined in the Affordable Housing Plan (defined below), and this Covenant;

WHEREAS, in order to document compliance with the MAH Ordinance and the Subject Property's compliance with Denver Zone Municipal Code requirements to access applicable height incentives, the City approved the High Impact Development Compliance Plan that served as Exhibit C-1 to the Second Amendment to the KSE Arena Development Agreement, dated

_____ and recorded under Reception No. _____ in the real estate records of the City and County of Denver; and

WHEREAS, the MAH Ordinance and Rules require Owner to record a covenant that shall apply to the Subject Property and run with the land to ensure that certain rental

and occupancy limitations, and administrative requirements for the Income Restricted Units are met and to assign to the City the right to enforce compliance with this Covenant.

NOW THEREFORE, the following are established as covenants running with the Subject Property:

1. **Definitions**

Area Median Income (“AMI”) means the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development.

- i. Income Restricted Units (“IRUs”) means those _____ [# of units] rental housing units located within the Subject Property as are designated from time to time by Owner. IRUs must be restricted as to the rent charged and resident income allowed pursuant to the Covenant.
- ii. “Compliance Report” means the annual reporting mechanism submitted to HOST, the form of which will be maintained on HOST’s website or otherwise supplied by HOST, that Owner shall prepare and provide to the City pursuant to Section 5 of this Covenant.
- iii. “Eligible Household” means a natural person who, at the time of entering into the lease for an IRU or a renewal of such lease, verifies to Owner on the Income Verification that the total gross income earned by such person is [XX]%, [YY]%, or [FILL IN AS NECESSARY]%) or less of the of AMI for the resident’s household size.
- iv. “Income Verification” means the process by which a household has been determined to be eligible to occupy or purchase an IRU.
- v. “Initial Leasing Period” means the period commencing on the first date a certificate of occupancy is issued for any building within the Subject Property that contains IRUs and ending on the earlier of the date when all IRUs have been fully leased or six months after certificate of occupancy.
- vi. “Resident Income Certification” (RIC) means a certification, the form of which will be maintained on HOST’s website or otherwise supplied by HOST, regarding resident eligibility to live in the Affordable Unit; and any successor certification, as required by HOST from time to time.

2. **Rent Limitations**. The rent limitation for the IRUs are as follows:

(##) of the IRUs (the “XX% Units”) will have rents not exceeding the amount posted on the website of the City and County of Denver’s Schedule D-1 to Exhibit B

Department of Housing Stability (“HOST”), or any successor agency which is assigned responsibility for the City’s MAH Ordinance, for households earning [XX]% or less of AMI.

(##) of the IRUs (the “YY% Units”) will have rents not exceeding the amount posted on the website of HOST for households earning [YY]% or less of AMI.

[REPEAT AS NECESSARY]

The maximum allowable rents posted on HOST’s website are based upon the AMI threshold published by the U.S. Department of Housing and Urban Development. Using these gross rental limits, HOST’s maximum allowable net rents are calculated by subtracting the utility allowance published annually by the Colorado Department of Local Affairs (DOLA) and any other “non-optional” fees charged to residents.

3. **Occupancy/Income Limitations.** The occupancy and income limitations for the IRUs are as follows:

The XX% Units shall be occupied by Eligible Households whose incomes are at or below [XX]% of AMI.

The YY% Units shall be occupied by Eligible Households whose incomes are at or below [YY]% of AMI.

[REPEAT AS NECESSARY]

Owner shall have responsibility to assure that a household or individual is an Eligible Household before executing a lease contract and shall complete an Income Verification for each Eligible Household. Owner shall also offer the IRUs to Eligible Households through a fair and equitable system and use good-faith efforts to enter into leases with and market to Eligible Households.

4. **Amount of Income Restricted Units and Location of Income**

Restricted Units. Owner shall provide no less than _____ (_____) IRUs on the Subject Property which may be floating throughout the Subject Property or specific units designated by Owner below.

BEDROOMS	XX% Units						
Studio							

1 Bedroom						
2 Bedroom						
3 Bedroom						
TOTAL						

5. **Compliance and Reporting.**

- i. At the end of the Initial Leasing Period, Owner shall submit a Compliance Report, indicating how many IRUs were made available and leased during the Initial Leasing Period and a copy of a signed Resident Income Certification (RIC) for each Eligible Household that entered into a lease during the Initial Leasing Period.
- ii. Owner shall demonstrate continued compliance with this Covenant after the Initial Leasing Period by submitting to the City a Compliance Report on an annual basis during the term of this Covenant. Reports are to be submitted within 30 days of HOST's request.
- iii. The Income Verifications for each Eligible Household shall be maintained by Owner at the management office at the Subject Property or such other place where Owner's books and records are kept in the Denver metropolitan area for so long as the Eligible Household occupies an IRU. HOST reserves the right to request Income Verification documentation as needed to verify compliance.
- iv. Upon reasonable notice and during the normal business hours maintained by Owner at the management office at the Subject Property or such other place where the requested books and records are kept in the Denver metropolitan area, Owner shall permit any duly authorized representative of the City to inspect any books or records of Owner pertaining to the project at the Subject Property containing IRUs which reasonably relate to Owner's compliance with the terms and conditions of this Covenant.
- v. Owner acknowledges that the City may, upon reasonable notice and during the normal business hours maintained by the Owner, perform housing quality standard inspections as necessary to ensure IRUs are maintained at minimum quality standards in accordance with the Rules. These inspections may take place during the Initial Leasing Period as well as throughout the term of affordability.
- vi. Owner acknowledges that the City may, at its election, hire a compliance agent, to monitor Owner's compliance with this Covenant. In such an Schedule D-1 to Exhibit B

event, Owner shall be authorized to rely upon any written representation made by the compliance agent on behalf of the City.

6. **Termination of Lease.** The form of lease to be used by Owner in renting any IRUs to Eligible Households shall also provide for termination of the lease and consent by such resident to immediate eviction if such resident subleases the IRU, attempts to sublease the IRU, or provides the IRU as a short-term rental as defined by Article III, Chapter 33 of the Denver Revised Municipal Code.

7. **Term.** This Covenant shall encumber the Subject Property for a period of ninety-nine (99) years from the date of recording hereof and shall not be amended or modified without the express written consent of the City and County of Denver. The City has the right, in its sole discretion, to extend the Covenant Period for an additional ninety-nine (99) years. The City may exercise this right by providing notice to Owner no later than five (5) years before the expiration of the Covenant Period of its intent to exercise its Extension Right. The Extension Right will be considered effective upon the City filing an acknowledgement in the City real property records that the City is extending the Covenant Period per the terms of this Section 13(a).

8. **Run with the Land.** The Covenant shall run with the Subject Property and shall be binding on all persons having or acquiring an interest in title to the Subject Property, all upon terms, provisions, and conditions set forth in this Covenant.

9. **Seniority of Covenant.** The Covenant is senior to all instruments securing permanent financing.

10. **Survivability.** If any provision of this Covenant shall be held by a court of proper jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall survive and their validity, legality or enforceability shall not in any way be affected or impaired thereby.

11. **Enforcement.** This Covenant may be enforced by the City and County of Denver, or the Executive Director of HOST.

12. **Memorandum of Acceptance.** Upon any sale of the Subject Property, Owner shall require the grantee of the Subject Property to execute a Memorandum of Acceptance and shall deliver a copy of such Memorandum of Acceptance to the Executive Director of HOST not less than thirty (30) days after such sale is consummated.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, Owner has caused this Covenant to be executed on the date first written above.

OWNER: _____,

a _____

By: _____

Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____
_____, 20_____, by _____ as _____
of _____

_____.
a

Witness my hand and official seal.

My commission expires: _____.

Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Rental and Occupancy Covenant, and its terms are hereby accepted by the City and County of Denver, Colorado.

CITY AND COUNTY OF DENVER, COLORADO

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of the City and County of Denver, Colorado.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

SCHEDULE D-2
COVENANT ENCUMBERING INCOME RESTRICTED UNIT (OWNERSHIP)

WHEN RECORDED MAIL TO:

Department of Housing Stability
Attention: Catalytic Projects Team
201 W. Colfax Ave., Dept. 615
Denver, CO 80202

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

**NOTICE OF VOIDABLE TITLE TRANSFER AND AFFORDABLE HOUSING
COVENANT FOR THE OCCUPANCY AND RESALE OF FOR SALE UNIT at**

[project name]

THIS NOTICE OF VOIDABLE TITLE TRANSFER AND AFFORDABLE HOUSING COVENANT
FOR THE OCCUPANCY AND RESALE OF FOR SALE UNIT at

[project name], (the "Covenant")

is made and entered into this _____ day of _____, 20____, by

[developer entity]

(the "Declarant"), and is enforceable by the CITY AND COUNTY OF DENVER, COLORADO, or its
designee (the "City").

WITNESSETH:

WHEREAS, Declarant owns the real property legally described as follows: [INSERT

LEGAL UNIT DESCRIPTION]

(a unit being referred to herein as an "IRU").

WHEREAS, the provisions of Article X of Chapter 27 of the Denver Revised Municipal Code
as amended from time to time (the "MAH Ordinance") and the Mandatory Affordable Housing Ordinance
& Affordable Housing Permanent Funds Ordinance Administrative Rules and Regulations (the "Rules"),
shall apply to the IRU and run with the land until the Final IRU Sale and this Covenant shall bind the
Owners of the IRU, and all other parties with an interest in title to the IRU until the Final IRU Sale.;

WHEREAS, Declarant agrees to restrict the acquisition or transfer of the IRU to Eligible
Households as that term is defined in this Covenant. In addition, Declarant agrees that this Covenant shall
constitute a resale restriction setting forth the Maximum Sale Price for which the IRU may be sold, the
amount of appreciation, and the terms and provisions controlling the resale of the IRU should a subsequent
Owner of an IRU desire to sell his or her interest in the IRU at any time after the date of this Covenant.
Finally, by this Covenant, Declarant agrees to restrict the IRU against use and occupancy inconsistent with
this Covenant.

NOW, THEREFORE, for consideration hereby acknowledged by Declarant, Declarant hereby represents, covenants and declares as follows:

1. **Definitions.** The following terms shall have the following meanings when used in this Covenant:

- (a) “AMI” means the median income for the Denver metropolitan area, adjusted for household size as calculated by HUD.
- (b) “Covenant Period” means a period of ninety-nine (99) years, commencing on the date of Initial Sale of the IRU, subject to the City’s right to extend the same pursuant to Section 13.
- (c) “Director” means the Executive Director of HOST or his or her designee.
- (d) “Eligible Household” means a household that holds a valid verification of eligibility from HOST (as described in Section 4 below) that entitles the household to buy an IRU. To be eligible to purchase the IRU at Initial Sale or resale, households must be earning no more than percent (%) of the AMI at the time of execution of a contract for purchase of an IRU and meet all other requirements set forth in the Rules. The term Eligible Household includes nonprofit organizations designated by the Director and governmental or quasi-governmental bodies who purchase the IRU for the purpose of renting or selling the IRU to a household whose income qualifies them to rent or purchase the IRU.
- (e) “Final IRU Sale” means the first resale of the IRU occurring after the end of the Covenant Period, subject to the City’s right to extend, in compliance with the terms and restrictions set forth herein. If the IRU is not resold within the period beginning on the expiration date of the Covenant Period and ending on the ten (10) year anniversary of such date, the Final IRU Sale shall be deemed to have occurred on such ten (10) year anniversary.
- (f) “HOST” means the City and County of Denver’s Department of Housing Stability or any successor agency which is assigned responsibility for the City’s MAH Ordinance.
- (g) “HUD” means the U.S. Department of Housing and Urban Development.
- (h) “Initial Sale” means the first sale of the IRU by Declarant;
- (i) “Maximum Sale Price” means the maximum amount for which the IRU may be sold by Declarant, as set forth in Section 3(a) below or sold by a subsequent Owner, as set forth in Section 7 below.
- (j) “Memorandum of Acceptance” shall have the meaning set forth in Section 5 below.
- (k) “Owner(s)” means any Eligible Household that purchases the IRU from the Declarant and any subsequent buyer, devisee, transferee, grantee or owner of, or holder of title to, the IRU, provided that if the City shall for any reason take title to the IRU, it shall not be considered an “Owner” for purposes of this Covenant.
- (l) “Purchase Money First Lien Holder” means the lender who advances funds to an Eligible Household for the purchase the IRU and who is a holder of a purchase money first priority deed of trust against the IRU. The Purchase Money First Lien Holder shall be deemed to include assigns of the first lien holder but shall not include lenders who re-finance the IRU.
- (m) “Transfer” means any sale, assignment or transfer that is voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, trustee’s sale, deed in lieu of

foreclosure, or otherwise) of any interest in the IRU, including, but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of the IRU is transferred and the Owner obtains title.

2. Property Subject to Covenant. Declarant and each subsequent Owner of the IRU, and every party with an interest in title to the IRU hereby covenants and agrees that the IRU will be used, occupied, and Transferred strictly in conformance with the provisions of this Covenant, for so long as this Covenant remains in force and effect.

3. Initial Sale. The Initial Sale of the IRU by Declarant shall be subject to the following restrictions:

(a) The Initial Sale of the IRU shall be at a price no greater than _____ Dollars and No/100, which is the current maximum sales price per HUD for the Eligible Household.

(b) Declarant shall make a good faith effort, as described in the Rules, to market the IRU for sale to households that are expected to qualify as Eligible Households and use the IRU as their own primary residence.

(c) If, during Declarant's marketing of the IRUs, more than one offer is received for the IRU, the Declarant shall use a fair selection process to select among the prospective purchasers.

(d) Declarant shall not close on the sale of the IRU without first obtaining a verification of eligibility issued by HOST for the buyer or buyers as set forth in Section 4 below. A copy of each verification shall be furnished by HOST and maintained on file by HOST.

(e) Upon closing of the Initial Sale of the IRU, the purchase contract, Memorandum of Acceptance, appraisal (if necessary), the warranty deed and a copy of the HUD- 1 Settlement Sheet (or similar documentation), and any other documentation deemed necessary by HOST shall be filed with HOST to verify the sale of the IRU.

4. Eligible Household Verification.

(a) Prior to entering into a purchase and sale contract for the IRU, a household must be income verified by HOST. The household must submit a request for income verification (on the form provided by the City).

(b) Within ten (10) business days after receipt of the income verification request, the City shall verify the potential purchaser's household income based on the Rules and either (i) issue a verification, signed by the City, stating that the household is an Eligible Household (the "Verification"); or (ii) deliver notice to the household specifying the reasons that a Verification cannot be issued.

5. Memorandum of Acceptance. Each Owner shall execute and record a Memorandum of Acceptance in substantially the form attached hereto as Exhibit A (completed with the appropriate information relating to the IRU and such Owner) in the real property records of the City and County of Denver, Colorado concurrently with the recordation of such Owner's deed to the IRU. Such Memorandum of Acceptance shall state that the conveyed property is an IRU and is subject to the restrictions contained in this Covenant.

Upon any sale or resale of the IRU, a Memorandum of Acceptance shall be recorded with the Clerk and Recorder of the City and County of Denver concurrently with the deed for the IRU. If the Memorandum of Acceptance is not so recorded, then the transfer shall be voidable at the option of the City.

6. Use and Occupancy.

(a) Owners of the IRU shall occupy the IRU within thirty (30) days after closing of

their purchase thereof.

(b) At all times during the Covenant Period Owners shall occupy the IRU as the Owner's sole, exclusive and permanent place of residence. A permanent residence shall mean the home or place in which one's habitation is fixed and to which one, whenever one is absent, has a present intention of returning after a departure or absence therefrom. The maximum duration of absence within any one (1) year period is sixty (60) days. In determining what is a permanent residence, the City may consider the following circumstances relating to the Owner: business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse and children, if any, location of personal and real property, and motor vehicle registration. Temporary exceptions allowing the Owner of the IRU to rent out the IRU (subject to the limitations set forth in the Rules) may only be granted by HOST as permitted by and justified under the Rules. Under no circumstances shall the IRU be used as a short-term rental, as defined by Article III, Chapter 33 of the Denver Revised Municipal Code. The requirements of this Section shall not preclude an Owner from sharing occupancy of an IRU with non-Owners on a rental basis provided Owner continues to reside in the IRU and to meet the obligations contained in this Covenant.

(c) If the Owner dies, at least one person taking title by will or by operation of law, whether eligible or not, either shall occupy the IRU as his, her, or their primary residence during the Covenant Period, or shall sell the IRU as provided herein. In no event shall the death of the Owner affect the operation of the Covenant or the Rules, including, but not limited to, the provisions related to Maximum Sale Price.

7. Maximum Sale Price.

(a) If, at any time during the Covenant Period, an Owner desires to sell their IRU, the Owner shall, at least ten (10) days prior to offering such IRU for sale, complete and submit to HOST a Maximum Resale Request (on the form provided by the City). Such form shall include the date on which the Owner will be ready to begin the marketing to Eligible Households.

(b) The Maximum Sale Price is calculated as follows:

(i) Start with the Prior Purchase Price paid for the IRU;

(ii) For each year from the date that the selling Owner acquired the IRU multiply the selling Owner's Prior Purchase Price by the percentage change over the prior year in the Case/Shiller index up to a maximum increase for any given year of 3.5 percent. Each year's percent increase is added to the Prior Purchase Price and is not compounded from year to year. In years where the Case/Shiller index decreases, there shall be no adjustment to decrease the Prior Purchase Price of the IRU;

(iii) For each year add the product of the multiplication described in 7(b)(ii) above to the selling Owner's purchase price;

(iv) Add the costs of Eligible Capital Improvements that have been approved by HOST up to the time of Transfer; and

(v) Add the amount of the sales commission paid by the Owner; provided that such amount does not exceed the maximum allowable sales commission published by HOST on an annual basis.

(c) Owner may not list the IRU for sale prior to receipt of HOST's written determination of the Maximum Sale Price. After receiving such determination from the City, the selling Owner may list the IRU for sale to potential Eligible Households at or below such Maximum Sale Price. THE MAXIMUM SALE PRICE IS ONLY AN UPPER LIMIT ON THE RESALE PRICE FOR THE

IRU, AND NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION, WARRANTY OR GUARANTEE BY THE CITY OR DECLARANT THAT UPON RESALE THE OWNER SHALL OBTAIN THE MAXIMUM SALE PRICE. DEPENDING UPON THE CONDITION OF THE UNIT AND CONDITIONS AFFECTING THE REAL ESTATE MARKET, THE OWNER MAY OBTAIN LESS THAN THE MAXIMUM SALE PRICE FOR THE IRU UPON RESALE.

(d) Owner shall make a good faith effort to market the IRU in accordance with the requirements set forth in the Rules to purchasers that are expected to qualify as Eligible Households.

(e) Owner may enter into a contract for the sale of the IRU upon such terms and conditions as the selling Owner shall deem acceptable, provided, however, that the purchase price shall not exceed the Maximum Sale Price.

(f) The verification procedure described above in Section 4 shall apply to each resale of any IRU.

(g) Upon the transfer of the IRU, the purchaser must sign and record a Memorandum of Acceptance as described above in Section 5.

(h) The Director may waive the restrictions on the resale prices for IRUs if the Director finds that the restrictions conflict with regulations of federal or state housing programs and thus prevent Eligible Households from buying dwelling units under the IRU program. Any waiver shall be in writing, shall reference the recorded covenant, and shall be recorded in the records of the Clerk and Recorder for the City and County of Denver, Colorado.

8. Remedies in the Event of Breach.

(a) In the event that HOST has reasonable cause to believe that an Owner is violating the provisions of this Covenant, an authorized representative of HOST may seek permission to enter the IRU, if necessary to determine compliance.

(b) In the event the City becomes aware of an alleged violation of this Covenant, the City or HOST shall send a notice of such alleged violation to the Owner detailing the nature thereof and allowing the Owner thirty (30) days to cure such default or request a hearing before the City in accordance with the process described in the Rules. If no hearing is requested and the violation is not cured within the thirty (30) day period, the Owner shall be considered in violation of this Covenant. If a hearing is held before the City, the decision of the City based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

(c) There is hereby reserved to the City, HOST and the Director the right to enforce this Covenant, including any and all remedies provided pursuant to the Denver Revised Municipal Code.

(d) Any Owner who violates the occupancy provisions of Section 6(b) above may be required by the Director to occupy such IRU as Owner's domicile, offer the IRU for resale to an Eligible Household, and/or turn over to the City all rents received without a City exception.

(e) Subject to the limitations set forth in Section 10 below, in the event the IRU is transferred in a manner that is not in full compliance with the terms and conditions of this Covenant, such Transfer shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every Transfer of the IRU, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, regardless of reference therein to this Covenant. Notwithstanding anything in this Covenant to the contrary, in the event that the IRU is encumbered by a deed of trust from a Purchase Money First Lien Holder and such deed of trust is insured by HUD, the City's remedies shall specifically not include remedies prohibited by HUD, such as: (i) voiding a conveyance, including a lease, by the Owner; (ii) terminating the Owner's interest in the IRU;

or (iii) subjecting the Owner to contractual liability including damages, specific performance or injunctive relief, other than requiring repayment at a reasonable rate of interest any amount paid for an IRU above the Maximum Sale Price.

9. Seniority of Covenant. This Covenant is senior to all instruments securing permanent financing, except as otherwise permitted herein.

10. Release of Covenant in Foreclosure.

(a) In the event of notice of default or notice of foreclosure by the Purchase Money First Lien Holder (which shall include assignees of the Purchase Money First Lien Holder), the Owner shall send a copy of said notice to HOST within seven (7) days of receipt.

(b) The City, pursuant to the process and rights described in Subsection 10 (c) below, shall release this Covenant of record and waive its ability to enforce the provisions of this Covenant with respect to the IRU in the event of foreclosure or the acceptance of a deed in lieu of foreclosure with respect to the IRU by a Purchase Money First Lien Holder which is a holder of a purchase money first priority deed of trust against the IRU (which shall be the only party entitled to take the IRU free of this Covenant pursuant to the provisions of this Section 10). In the event that HOST purchases the IRU at foreclosure, HOST or its designee may sell the IRU to Eligible Households, or rent the IRU until such time that the IRU can be sold to an Eligible Household in accordance with this Covenant. As to any IRU encumbered by a HUD-insured mortgage, this Covenant shall automatically and permanently terminate upon foreclosure of a deed of trust by a Purchase Money First Lien Holder, acceptance of a deed in lieu of foreclosure by a Purchase Money First Lien Holder, or assignment to HUD of a purchase money first priority deed of trust encumbering the IRU.

(c) In the event of (i) a foreclosure action being brought by the Purchase Money First Lien Holder (including assigns of the Purchase Money First Lien Holder), or (ii) the request for the Purchase Money First Lien Holder to accept title to the IRU by deed in lieu of foreclosure, the Owner shall give a copy of any notice of intent to foreclose or request for deed in lieu to HOST within ten (10) days of receipt of such notice or request. Notice to HOST shall be to the address of HOST as provided in this Covenant with a copy to the City Attorney's Office. In the event that the Purchase Money First Lien Holder takes title to the IRU pursuant to a deed in lieu of foreclosure, the Owner shall give notice to HOST with a copy to the City Attorney's Office upon the vesting of title to the IRU in Purchase Money First Lien Holder.

11. Limitation on Equity Mortgages. During the Covenant Period, Owner shall not cause or allow any second mortgage, refinance mortgage, or equity mortgage greater than the then-current Maximum Sale Price to be placed on or recorded against the IRU. Any action in contravention of this provision shall be void and may subject the Owner to any applicable penalties for fraud.

12. Covenant Running with Land; Duration of Covenant. The terms of this Covenant and the provisions of the Rules shall apply to the IRUs and run with the land as a burden thereof until Final IRU Sale and shall be specifically enforceable by the City and its successors and assigns, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion or eviction of non-complying Owners and/or occupants.

13. City's Extension of Covenant Period; Final IRU Sale.

(a) The City has the right, in its sole discretion, to extend the Covenant Period for an additional ninety-nine (99) years. The City may exercise this right by providing notice to Owner no later than five (5) years before the expiration of the Covenant Period of its intent to exercise its Extension Right. The Extension Right will be considered effective upon the City filing an acknowledgement in the

City real property records that the City is extending the Covenant Period per the terms of this Section 13(a).

(b) Assuming no previous termination due to foreclosure, this Covenant shall terminate, expire and be of no further force and effect with respect to the IRU on the date of Final IRU Sale.

(c) If an Owner desires to sell their IRU within the ten (10) year period after the end of the Covenant Period, such proposed sale shall be subject to the following requirements:

(i) Right of HOST to Purchase. No less than thirty (30) days before offering the IRU for Final IRU Sale, the Owner shall notify HOST of the proposed offering and the date on which the Owner will be ready to offer the property for sale. The notice shall affirm that the property will be offered at fair market value with no extraordinary terms of sale and that it is being offered as a single property for sale. The notice shall set forth the proposed sale price, number of bedrooms, unit size by square feet, and a description of the amenities offered in the IRU.

(ii) Within thirty (30) days of HOST's receipt of the notice described above, HOST shall provide written notice to the Owner of the City's or its designee's intent to purchase the IRU. If the City or its designee opts to purchase the IRU, it shall complete such purchase within ninety (90) days after the date on which the notice of intent to purchase was received by the Owner. If the City does not so notify the Owner or if the purchase of the property does not close within such ninety (90) day period, the Owner may proceed to sell the IRU to any third-party purchaser.

14. Notices. Any notice, consent or approval which is required or permitted to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with posting fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Covenant.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant: _____

[Development Entity]

[_____ Street Address]

[City, State and Zip Code]

To the City: Department of Housing Stability
City and County of Denver
201 W. Colfax Avenue, Dept.615
Denver, Colorado 80202

Copy to: City Attorney's Office
City and County of Denver
201 W. Colfax Avenue, Dept. 1207
Denver, Colorado 80202

To Owner: To be determined pursuant to the Memorandum of Acceptance (as shown on Exhibit A) recorded with respect to each Transfer of an IRU.

15. Exhibits. All exhibits attached hereto are incorporated herein and by this reference made a part hereof.

16. Severability. Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such documents.

17. Conflict or Inconsistency. In the event of any conflict or inconsistency between the terms of this Covenant and the terms and provisions of the Rules, as such are in effect on the date of this Covenant, the Rules shall prevail.

18. Choice of Law. This Covenant and each and every related document are to be governed and construed in accordance with the law of the State of Colorado.

19. Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

20. Section Headings. Paragraph or section headings within this Covenant are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

21. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Covenant shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Covenant. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

22. Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

23. Personal Liability. Owner shall be personally liable for any of the transactions contemplated herein.

24. Further Actions. The parties to this Covenant agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any restriction or document relating hereto or entered into in connection herewith.

25. Modifications. The parties to this Covenant agree that any modifications of this Covenant shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of the City and County of Denver, Colorado.

26. Owner and Successors. It is understood that a person or persons shall be deemed an Owner hereunder only during the period of his, her or their ownership interest in the IRU and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period. Notwithstanding the foregoing, if an Owner conveys the IRU in violation of this Covenant, nothing herein shall prevent or limit the City's ability to seek a remedy against such Owner even after their ownership interest in the IRU ceases.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

DECLARANT: _____, a _____
[Development Entity] [State]
_____.
[Type of business organization]

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ as _____ of _____, a _____ [Development Entity] [State] _____.
[Type of business organization]

Witness my hand and official seal.
My commission expires:

Notary Public

ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Notice of Voidable Title Transfer and Master Covenant for the Occupancy and Resale of Units _____, and its terms [Project Name]

are hereby accepted by the City and County of Denver, Colorado. CITY

AND COUNTY OF DENVER, COLORADO

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of
_____, 20_____, by _____ as _____ of the City and
County of Denver, Colorado.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

EXHIBIT A

MEMORANDUM OF ACCEPTANCE OF NOTICE OF VOIDABLE TITLE TRANSFER AND AFFORDABLE HOUSING COVENANT FOR THE OCCUPANCY AND RESALE OF UNIT AT

[Project Name]

WHEREAS, _____, the Buyer, purchased
[Buyer Name] _____, on the date of _____ from
[Property Address] _____ Seller. The maximum resale price [is
[Seller Name] _____ /is deemed to be] \$ _____ as of _____, 20 _____.
[purchase price amount]

WHEREAS, the Seller of the IRU is requiring as a prerequisite to the sale transactions, that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that certain instrument entitled "Notice of Voidable Title Transfer and Affordable Housing Covenant for The Occupancy and Resale of Unit at _____", recorded on
[Project Name] _____, 20 ___, under Reception No. _____, in the real property records of the City and County of Denver, Colorado (the "Covenant").

NOW, THEREFORE, as an inducement to the Seller to sell the Unit, the Buyer:

1. Acknowledges that Buyer has carefully read the entire Covenant, that applies to the property and has had the opportunity to consult with legal and financial counsel concerning the Covenant and fully understands the terms, conditions, provisions, and restrictions contained in the Covenant.
2. Acknowledges the Covenant **voids title passage** if a transfer is attempted which is non-compliant with the affordability restrictions in the Covenant. The failure to transfer for a restricted price and to an eligible household under the Covenant means title is not transferred (void) and the buyer has no title or ownership of the property.
3. Acknowledges that, before selling this affordable home in the future, it is mandatory that approval is obtained **in writing** from the City and County of Denver, Department of Housing Stability, 201 West Colfax Ave., Dept. 615, Denver, Colorado 80202.
4. Acknowledges that the terms of the Covenant restrict the resale price. Maximum resale price is available only from the City and County of Denver.
5. Acknowledges that the terms of the Covenant restrict purchasers to households earning no more than _____ % of Area Median Income ("AMI"). Allowable income maximums are available

only from the City and County of Denver.

6. Acknowledges that the City and County of Denver may recover as financial penalty all amounts overpaid to the seller and require the purchaser to sell the property for the affordable price to an eligible household. The City's recovery of a penalty does not limit any action a buyer or other injured party may have to recover their damages from the seller.
7. Acknowledges that the terms of the Covenant prohibit rentals except in limited circumstances. Exceptions to rental require the written approval of the City and County of Denver.
8. Acknowledges that the City and County of Denver may recover as financial penalty all rents paid for and require the purchaser to sell the property for the affordable price to an eligible household. The City's recovery of a penalty does not limit any action a resident or other injured party may have to recover their damages from the landlord.
9. Notice to Buyer, pursuant to Subsection 14 of the Covenant, should be sent to:

10. In addition to the above, the City and County of Denver may seek any remedy allowed to it for violations of Article X, Chapter 27, Denver Revised Municipal Code (including any adopted rules and regulations) or the Covenant.
11. Directs that this memorandum be placed of record in the real estate records of the City and County of Denver, Colorado and a copy provided to the Department of Housing Stability.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this instrument of the day and year first above written.

BUYER(S):

By: _____
Name: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, by _____

Witness my hand and official seal.

Notary Public

My commission expires: _____

Please return **originally signed**
document to HOST for recordation.

Department of Housing Stability 201
W. Colfax Ave., Dept. 615
Denver, CO 80202

EXHIBIT C

Ball Arena Escrow Draw Request & Certification

Date submitted:

SDP #:

Requested Amount of Draw:

Requested Funding Date:

Use of Funds: The funding will be used to develop Income-Restricted Units within the Central Park Neighborhood and Transit Neighborhood for the Project.

Required Attachments:

- **Compliance Report** showing how KSE on track to meet HIDCP requirements.
- **Sources and Uses** illustrating how the funds are a part of the proforma for the proposed building
- **Project Detail Sheet:** specifically showing quantity of market rate and Income-Restricted Units, that includes the specific quantity of Income Restricted Units by AMI and product type (Studio-1-2-3 bed) within the Central Park Neighborhood or Transit Neighborhood.

I hereby certify that all of the attached items are an accurate reflection of the proposed building to be constructed and are being requested in accordance with the HIDCP.

Michael Neary Date
EVP of Business & Operations
Kroenke Arena Company, LLC, a Colorado limited liability company
and Kroenke Parking, LLC, a Colorado limited liability company

The draw from the Ball Arena Escrow Account is:

Approved: _____ Denied: _____
As authorized by:

City Representative Date

EXHIBIT D

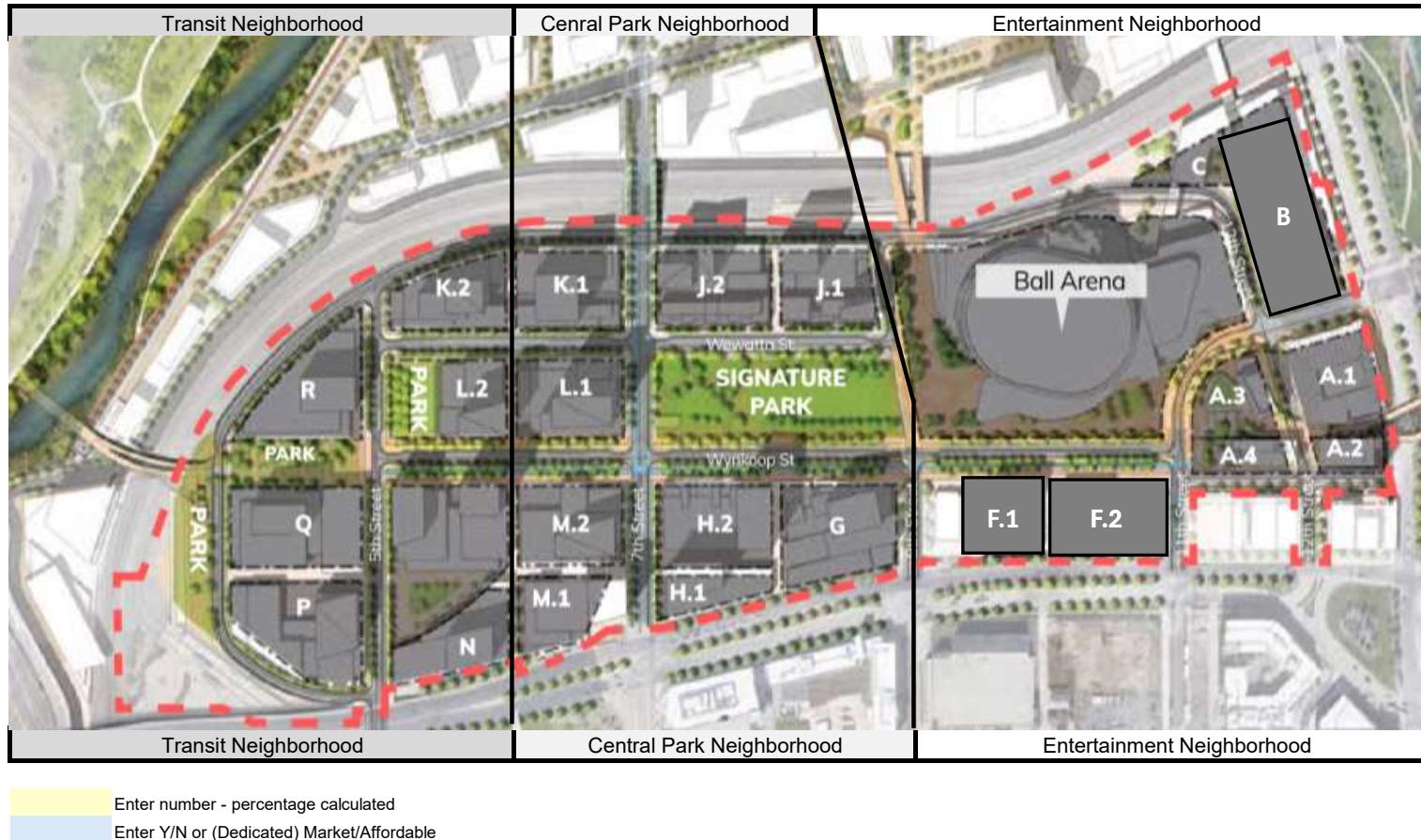
Compliance Report

Ball Arena Compliance Report

5/16/2025	Parcel	Total GFA	Total Units	Affordable Units	3. % Afford.	Status	4. Level (Y/N)	5. Unit Mix (Y/N)	6a. Ded. Afford/Market	6d. Penthouse (Y/N)	Notes (Status & tentative development noted below)
Entertainment Neighborhood	A.1	NA	NA		NA		NA	NA	NA	NA	Performance Venue - HIDCP via linkage fee
	A.2	144,828	137	25	18.2%	Projected	Y	NA	NA	Y	Projected
	A.3	NA	NA	NA	NA		NA	NA	NA	NA	Hotel / F&B development - HIDCP via linkage fee
	A.4	194,299	163	29	17.8%	Projected	Y	NA	NA	Y	Projected
	B	562,500	500	60	12.0%	Projected	Y	NA	NA	Y	Projected
	C	NA	NA	NA	NA		NA	NA	NA	NA	No development on this parcel
	F.1	165,000	150	0	0.0%	Projected	NA	NA	Market	NA	Projected
Park Neighborhood	F.2	NA	NA	NA	NA		NA	NA	NA	NA	Projected
	G		448	50	11.2%	Projected					Projected
	H.1		NA	NA	NA	Projected					Retail / F&B development - HIDCP via linkage fee
	H.2		404	60	14.9%	Projected					Projected
	J.1		295	0	0.0%	Projected			Market		Projected - potential market-rate development
	J.2		373	0	0.0%	Projected			Market		Projected - potential market-rate development
	K.1		345	50	14.5%	Projected					Projected
	L.1		346	50	14.4%	Projected					Projected
	M.1		235	235	100.0%	Projected			Affordable		Projected - potential affordable housing development
Transit Neighb.	M.2		354	50	14.1%	Projected					Projected
	K.2		282	42	14.9%	Projected					Projected
	L.2		440	64	14.6%	Projected					Projected
	N		281	0	0.0%	Projected			Market		Projected - potential market-rate development
	P		474	0	0.0%	Projected			Market		Projected - potential market-rate development
	Q		371	300	80.9%	Projected			Affordable		Projected - potential affordable housing development
	R		401	50	12.5%	Projected					Projected
Total, to-date		6,000	1,080	18.0%							

Status
Projected - exact units TBD (Projected)
As submitted in SDP (SDP)
As shown in Permit Documents (Permitted)
As completed at CO (Completed)

Ball Arena Compliance Report



Ball Arena - HIDCP Rules

	Entertainment	Central Park	Transit	Total
Section 3 - 18% of all for-sale or rental units to be Income Restricted - Measured by aggregating all three neighborhoods	yes	yes	yes	
Section 4 - Level of Affordability				
Rental - Income Average to 70% AMI not to exceed 80% AMI				
Rental - Affordable Structures only - Income Average to 70% AMI not to exceed 100% AMI	0	300	300	600
Rental - minimum of 50 Permanent Supportive Housing Units not to exceed 30% AMI	0	0	50	50
Ownership - Income Average to 90% AMI not to exceed 120% AMI				
Section 5 - 35% of IRUs in Central Park and Trasit shall be 2 or 3 bedrooms				
20% of IRUs to be 2-bedroom units income average at 70% AMI rental or 90% AMI ownership	yes	yes		
15% of IRUs to be 3 bedroom units income average at 70% AMI rental or 90% AMI ownership	yes	yes		
Section 6a - Has an Affordable Structure been permitted?	no	no	yes	
Section 6a - Has an affordable Housing Structure received its Certificate of Occupancy?	no	no	no	
Section 6b - Has a Market Rate Only Structure been constructed? 1 in Entertainment & 2 each in Central Park and Transit	no	yes	yes	
Penthouse Allocation - Less than 10% of the GFA per building for Penthouse. AMI must exceed 120% AMI.				